

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

VIA FEDERAL EXPRESS,
STANDARD OVERNIGHT DELIVERY
FedEx Tracking No. 8702 7855 0216

January 26, 2010

Mr. Bret Miller
Facilities Manager, Mid-Atlantic Region
International Petroleum Corporation of Delaware
505 S. Market Street
Wilmington, Delaware 19801

**RE: International Petroleum Corporation of Delaware
(EPA I.D. No. DED984073692)**
*- Notice of Noncompliance, Request to "Show Cause" and Notice of Opportunity
to Confer with EPA Representatives (hereinafter, "NON")*

Dear Mr. Miller:

The purpose of this NON is twofold. Initially, the U.S. Environmental Protection Agency, Region III ("EPA" or the "Agency"), wishes to provide you with a synopsis of the observations made by authorized EPA representatives during the course of a July 23, 2009 Inspection of the International Petroleum Corporation of Delaware ("IPC" or the "Company") facility (EPA I.D. No. DED984073692) located at 505 S. Market Street, Wilmington, Delaware 19801 (hereinafter, the "Facility") and to advise you of EPA's resulting belief that IPC has violated requirements of Subtitle C of the Resource Conservation and Recovery Act ("RCRA") and the State of Delaware hazardous waste management program, authorized and enforceable by EPA pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A. The Agency further seeks to advise you that, as a result of its July 23, 2009 RCRA Compliance Evaluation Inspection ("CEI") of the Facility, EPA believes that it has sufficient basis to issue an Administrative Complaint, including a Compliance Order and a proposal for the assessment of a civil monetary penalty, against the Company.

The second purpose of this NON is to provide representatives of IPC with an opportunity to meet or confer with EPA representatives prior to EPA's issuance of an Administrative Complaint and to offer IPC the further opportunity to show cause as to the reason(s), if any, why an Administrative Complaint should not be issued against the Company for any or all of the violations identified below. EPA also invites IPC to use the opportunity of such a meeting or conference to discuss the possibility of entering into an administrative settlement agreement with EPA — without litigation — in full and final resolution and satisfaction of IPC's civil penalty liability.

I. BACKGROUND

Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, the State of Delaware has been granted final authorization to administer a state hazardous waste management program *in lieu* of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. The Delaware Regulations Governing Hazardous Waste (hereinafter "DRGHW"), initially were authorized by EPA pursuant to RCRA Section 3006, 42 U.S.C. § 6926, on June 8, 1984, effective June 22, 1984 (53 Fed. Reg. 23837). EPA authorized certain revisions to the DRGHW on the following dates: August 8, 1996, effective October 7, 1996 (61 Fed. Reg. 41345); August 18, 1998, effective October 19, 1998 (63 Fed. Reg. 44152); July 12, 2000, effective September 11, 2000 (65 Fed. Reg. 42871); August 8, 2002, effective August 8, 2002 (67 Fed. Reg. 51478); March 4, 2004, effective May 3, 2004 (69 Fed. Reg. 10171); and October 7, 2004, effective December 6, 2004 (69 Fed. Reg. 60091). The State of Delaware administers its authorized, revised hazardous waste management program in lieu of the federal program. The authorized provisions of the State's revised hazardous waste management program, DRGHW Parts 122, 124, and 260-279 (which became effective between July 1, 2002 and August 21, 2004), have become requirements of RCRA Subtitle C and, accordingly, are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. Section 6928(a). Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil penalty against any person who violates any requirement of RCRA Subtitle C.

On July 23, 2009, duly authorized EPA representatives conducted a CEI of the above-referenced Facility to examine IPC's compliance with Subtitle C of RCRA, as amended, 42 U.S.C. §§ 6901, *et seq.*, and with the federally-authorized DRGHW. Subsequent to the July 23, 2009 CEI, one of the EPA inspectors sent IPC an e-mail request for additional information to IPC and IPC's Facilities Manager responded to that e-mail on August 19, 2009. On the basis of the CEI observations and e-mail response, one of the EPA Inspectors prepared a RCRA Compliance Evaluation Inspection Report ("RCRA CEI Report"), dated August 24, 2009. Subsequent to the July 23, 2009 CEI, and by letter dated October 22, 2009, EPA sent IPC an information request letter ("IRL") seeking certain additional information and copies of certain documents (including bills of lading, manifests, shipping invoices and notices/ certifications) relevant to materials observed on-site at the Facility during the course of the July 23, 2009 CEI. Copies of EPA's August 24, 2009 RCRA CEI Report and of photographs taken during the course of the CEI, were provided to IPC with the IRL. By letter dated November 25, 2009, IPC's Facilities Manager provided a written response to the EPA IRL.

Based upon observations made by the EPA inspectors during the course of the above-referenced July 23, 2009 CEI, including information, responses and documents gathered during and subsequent thereto, EPA has reason to believe that IPC has failed to comply with federally-authorized DRGHW requirements at the Facility.

II. PRELIMINARY NOTICE OF NONCOMPLIANCE ("NON") — BASED UPON FACILITY INSPECTION OBSERVATIONS AND SUPPORTING FACTS

On the basis of information currently in its possession, and for each of the reasons set forth and explained below, EPA believes that IPC has incurred civil liability for its violation of the specific DRGHW requirements identified herein, which include *owning and operating a hazardous waste treatment, storage, or disposal facility without a permit or interim status*.

1. Storage of Hazardous Waste Without a Permit or Interim Status

Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and DRGHW § 122.1(c), no person may own or operate a facility for the treatment, storage or disposal of hazardous waste without first obtaining a permit or interim status for such facility, except that, pursuant to DRGHW § 262.34, *generators* of hazardous waste who accumulate hazardous waste for less than 90 days are exempt from the requirement to obtain a permit for such accumulation, so long as the hazardous waste is stored in accordance with a number of conditions set forth in that section, including, in relevant part, DRGHW § 262.34(a)(4), which requires that "[t]he generator complies with the requirements for owners or operators in Subparts C . . . in [DRGHW] Part 265, [and] with [DRGHW] § 265.16 . . .".

IPC generates, collects, blends, and recycles petroleum products and petroleum contaminated water at the Facility and is a Large Quantity Generator ("LQG") of hazardous waste. IPC also purchases and delivers low aromatic mineral spirits to customers for use in parts cleaner units and then collects and accumulates spent mineral spirits that meet certain required specifications in a box trailer at the Facility for subsequent (and DNREC-approved) reuse. At the time of the July 23, 2009 CEI, IPC had not applied for or received, a treatment, storage or disposal permit for the Facility under RCRA Subtitle C and is subject to RCRA's generator requirements.

A. Storage of Hazardous Waste Without a Permit

During the July 23, 2009 CEI, the Inspectors observed six closed and weathered 30-gallon drums stored outside of the Facility's old maintenance shop. (See, RCRA CEI Photos 20 and 29-32); The EPA Inspectors were informed by Facility personnel that each of the six 30-gallon drums described above contained off-specification parts washer solvent that was generated by one or more of IPC's parts washer service customers. On August 19, 2009 and November 25, 2009, IPC provided information responsive to EPA's request for additional information about the contents of these drums which indicated that: the contents of the six 30-gallon drums were generated by IPC's customers; IPC was unable to identify the generating facility(ies) because the drums were missing their associated packing slips; IPC was unable to determine the dates it accepted such waste and could only estimate that it was on or after July 9, 2009; IPC determined that the drums contained paint waste (oil and water-based) and paint

thinner waste; IPC had not characterized the contents of the drums at the time of EPA's July 2009 CEI; the contents of each of these drums were characterized and determined to be a D001 hazardous waste by Veolia Environmental Solutions on August 18, 2009; and the contents of these drums were transported off-site from the Facility under Hazardous Waste Manifest Tracking No. 000326747 VES on August 18, 2009.

During the July 23, 2009 CEI, the Inspectors also observed in the same vicinity as the six 30-gallon drums referenced above, an open 55-gallon drum of partially full paint cans and used absorbent material (*See*, RCRA CEI Photos 21 & 22). The drum was labeled "LORCO Petroleum Services" and "Oil Filters Only." In its November 25, 2009 response to Question 5 of EPA's IRL, IPC indicated that this drum contained paint cans and rags generated by IPC or one of its customers. The contents were characterized as a D001 hazardous waste on August 18, 2009 by Veolia Environmental Solutions and shipped off-site on that date under Manifest Tracking No. 000326747 VES. In response to a subsequent December 8, 2009 e-mail from the EPA Inspector, IPC further indicated that: IPC did not generate the contents of the drum in question; the drum was off-loaded from one of the Company's Bayonne box trucks and was unlabeled, such that IPC was unable to identify the generator of the waste; the drum was set aside for purposes of characterization and disposal, but the contents were not characterized or disposed of until August 18th, 2009.

Based on the information provided to EPA by IPC representatives, IPC was not the generator of the seven containers of hazardous waste, identified and described immediately above, that were stored on-site at the Facility at the time of the July 23, 2009 CEI and IPC does not qualify for the hazardous waste "generator" exemptions of DRGHW § 262.34 with respect to such hazardous waste. As a result, IPC violated Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and DRGHW § 122.1(c), by engaging in the operation of a hazardous waste storage facility through its storage of seven containers of hazardous waste, generated by one or more of its customers, on-site at the Facility without having interim status or obtaining a permit.

B. Inadequate Personnel Training

DRGHW § 265.16(a)(1) requires, *inter alia*, that "[f]acility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensure [sic] facility's compliance with the requirements of this part." DRGHW § 265.16(c) further provides that "[f]acility personnel must take part in an annual review of the initial training required in paragraph (a) of this section."

During the July 23, 2009 CEI, the Facility Branch Manager stated that he was the person responsible for the training of the employees who managed hazardous waste at the Facility, but that he had not received annual hazardous waste training for at least the past three years. In support of that statement, the Facility was unable to provide annual hazardous waste training records for Mr. Ford for the calendar years 2006 through 2008.

IPC failed to qualify for the temporary (less than 90 day) generator accumulation exemption of DRGHW § 262.34 at the Facility by failing to satisfy the conditions set forth in DRGHW § 262.34(a)(4), as described above. As a result, IPC violated Section 3005 of RCRA, 42 U.S.C. § 6925, and DRGHW, § 122.1(c), by operating of a hazardous waste storage facility without having interim status or obtaining a permit in.

2. Failure to Perform General Waste Analysis

DRGHW § 264.13(a)(1) requires that: "[b]efore an owner or operator treats, stores, or disposes of any hazardous wastes, he must obtain a detailed chemical and physical analysis of a representative sample of the wastes. At a minimum, the analysis must contain all the information which must be known to treat, store, store or dispose of the waste in accordance with this part and Part 268 of these regulations."

At the time of the July 23, 2009 CEI, IPC was storing the waste identified and described in Section II.1.A, above, without having obtained a detailed chemical and physical analysis of a representative sample of the wastes and without having all the information which must be known to treat, store, store or dispose of such waste in accordance with DRGHW Parts 264 and 268.

IPC violated DRGHW § 264.13(a)(1) from at least July 23, 2009 through August 18, 2009 by storing the seven containers of hazardous waste identified and described in Section II.1.A, above, at the Facility without having obtained a detailed chemical and physical analysis of a representative sample of the wastes and without having all the information which must be known to treat, store, store or dispose of such waste in accordance with DRGHW Parts 264 and 268.

3. Failure to Provide Annual Hazardous Waste Training

Consistent with its DRGHW Part 265 counterparts, DRGHW § 264.16(a)(1) similarly requires, *inter alia*, that "[f]acility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensure [sic] facility's compliance with the requirements of this part" and DRGHW § 264.16(c) further provides that "[f]acility personnel must take part in an annual review of the initial training required in paragraph (a) of this section."

As described in Section II.1.B, above, the IPC Branch Manager, who was the person responsible for training employees who are responsible for the management of hazardous waste at the Facility, did not receive annual hazardous waste training during each of the calendar years 2006, 2007, 2008 and 2009.

IPC violated DRGHW § 264.16(c) by failing to take part in an annual review of the initial hazardous waste training required pursuant to DRGHW § 264.16(a)(1).

4. Failure to Keep Container of Hazardous Waste Closed During Storage

DRGHW § 264.173(a) requires that: “[a] container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.”

At the time of the July 23, 2009 CEI, the 55-gallon container (*i.e.*, drum) of D001 hazardous waste (partially full paint cans and used absorbent material) identified and described in Section II.1.A, above, was open at a time when it was not necessary to add or remove waste from the container.

IPC violated DRGHW § 264.173(a) by storing an open container of D001 hazardous waste on-site at the Facility at a time when it was not necessary to add or remove waste from the container.

5. Improper Management of Universal Waste Lamps

DRGHW § 273.13(d)(1) requires that: “[a] small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows: (1) A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions

DRGHW § 273.14(e) also requires that: “[e]ach lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: “Universal Waste-Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).”

DRGHW § 273.15(a) further provides that: “[a] small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of paragraph (b) of this section are met. DRGHW § 273.15(b) thereafter provides that: “[a] small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment or disposal.” However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment or disposal.

A. *Failure to Contain Universal Waste Lamps in Closed Packages*

IPC is a small quantity handler of universal waste. During the July 23, 2009 CEI, IPC was storing a number of used lamps in the Facility's old maintenance shop and storage area. (See, RCRA CEI Photos 37-43). Used lamps observed by the EPA Inspectors in the Facility's old maintenance shop and storage area at the time of the July 23, 2009 CEI included universal waste lamps subject to the DRGHW Part 273 Standards for Universal Waste Management. Those universal waste lamps that the EPA Inspectors observed in the Facility's old maintenance shop and storage area on July 23, 2009 were either: (i) uncontained and unlabeled; or (ii) contained in open cardboard boxes that were either unlabeled or improperly labeled.

IPC violated DRGHW § 273.13(d)(1) by storing uncontained universal waste lamps and open cardboard containers of universal waste lamps in the Facility's old maintenance shop and storage area on July 23, 2009.

B. *Failure to Properly Label or Mark Universal Waste Lamps and Containers*

IPC also violated DRGHW § 273.14(e) by failing to label or mark the universal waste lamps and the containers containing universal waste lamps that were being stored in the Facility's old maintenance shop and storage area on July 23, 2009 with the phrases "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

C. *Failure to Comply with Universal Waste Lamp Accumulation Time Limits*

The universal waste lamps observed during EPA's July 2009 CEI, described above, were shipped off-site as universal waste to Veolia Environmental Services on August 18, 2009 under Shipping Document Tracking Number ZZ 00226208. In response to question 8 of EPA's subsequent IRL, IPC indicated that "all fluorescent lamps in use at IPC have been deemed Universal Waste - Lamps", that it had no record of any off-site shipments of universal waste lamps from the Facility prior to the March, 2008 transfer of Facility ownership or between that date and August 18, 2009, when the universal waste lamps observed during the July 23, 2009 CEI were shipped off-site under Shipping Document Tracking Number ZZ 00226208.

IPC violated DRGHW § 273.15(a) by accumulating universal waste for longer than one year from the date the universal waste was generated or received from another handler.

6. Failure to Comply with General Facility Standards for Owners and Operators of Used Oil Processors and Re-finers

DRGHW § 279.52(a)(1), which is applicable to owners and operators of used oil processors and re-finers, provides that: "[f]acilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water which could threaten human health or the environment."

IPC operates the Facility as a used oil processing facility and a portion of its operations include collecting and consolidating used oil filters (terne and non-terne plated) that are generated by IPC's customers. IPC manages the used oil filter waste stream as "used oil" as that term is defined in 40 C.F.R. § 279.1.

During the July 23, 2009 CEI, the EPA Inspectors observed a total of fifteen containers of used oil filters, used oil and oily water and debris at the Facility's used oil container storage areas located outside of the Facility's old maintenance shop. (See, RCRA CEI Report Photos 13, 14, 17-21, and 26-28). Each of these containers was open and the contents readily visible. In response to Question 2 of EPA's IRL, IPC further identified the contents of one of these drums as used automotive spin-on oil filters that were non-terne plated. In response to Question 5 of EPA's IRL, IPC further stated that thirteen of the other open containers were previously processed used oil drums that, having been left open and exposed to the elements, had accumulated rain water and contained an oily water mixture.

At the time of the July 23, 2009 CEI, IPC was storing open containers of used oil filters, used oil and oily water and debris at the Facility. As a result, IPC violated DRGHW § 279.52(a)(1) by failing to maintain and operate the Facility to minimize the possibility of an unplanned sudden or non-sudden release of used oil to air, soil, or surface water which could threaten human health or the environment.

7. Improper Used Oil Management (Failure to Label Containers of Used Oil)

DRGHW § 279.54(f)(1) requires that: "[c]ontainers and above ground tanks used to store or process used oil at processing and re-refining facilities must be labeled or marked clearly with the words "Used Oil."

On July 23, 2009 twenty-four 55-gallon drums that were not labeled with the words "Used Oil" were observed by the EPA inspectors at the "Wilmington Barrels Only" used oil container storage area of the Facility. In response to Question 2 of the IRL, IPC stated that one of these drums (an open drum) contained used automotive spin-on oil filters that were all non-terne plated and that the contents of that drum (depicted in RCRA CEI Report Photo 14) were shipped off-site to Vortex Recycling located in New Castle, PA on August 6, 2009 via Invoice No. 9488. In response to Question 3 of the IRL, IPC confirmed that the remaining 23 drums that were not labeled with the words "Used Oil" were labeled "Dolphin - Penn 121," "Labrador Sea," "Penn

90," "Java Sea/K Sea," "Adriatic Sea," and "Amberjack" and that these drums contained bilge water, a mixture of used oil and fuel that were processed by the Facility on July 28, 2009.

On July 23, 2009 three 55-gallon drums that were not labeled with the words "Used Oil" were observed by the EPA inspectors at the "Bayonne Barrels Only" used oil container storage area of the Facility.

In response to IRL question 4, IPC verified that each of these 3 drums contained used oil that was either shipped to Vortex Recycling on August 6, 2009 via Invoice No. 9488.

On July 23, 2009 thirteen drums that were not labeled with the words "Used Oil" were observed by the EPA inspectors directly across from the area designated as the "Wilmington Barrels Only" area of the Facility. In response to IRL question 5, IPC stated that these 13 containers were previously processed used oil drums that, having been left open and exposed to the elements, had accumulated rain water and contained an oily water mixture and that the contents of these containers were processed on-site on July 28, 2009.

IPC violated DRGHW § 279.54(f)(1) by failing to label or mark clearly with the words "Used Oil": (i) twenty-four containers of used oil stored at the "Wilmington Barrels Only" used oil container storage area of the Facility; (ii) three containers of used oil stored at the "Bayonne Barrels Only" used oil container storage area of the Facility; and (iii) thirteen containers of used oil stored directly across from the "Wilmington Barrels Only" used oil storage area of the Facility.

III. REQUEST TO SHOW CAUSE & NOTICE OF OPPORTUNITY TO CONFER AND PROVIDE ADDITIONAL INFORMATION TO EPA FOR REVIEW AND FURTHER CONSIDERATION

Pursuant to Sections 3008(a)(1) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(1) and (g), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance and Corrective Action Orders, and the Revocation, Termination or Suspension of Permits* (the "*Consolidated Rules of Practice*"), 40 C.F.R. Part 22, EPA is authorized to commence a civil administrative action for the assessment of civil penalties for violations of the above-cited regulations. However, EPA initially seeks to provide IPC with an informal opportunity to respond to the preliminary conclusions of EPA's investigation and to communicate its position on the matters described herein to EPA. IPC is encouraged to use this opportunity to submit any additional information that it believes the Agency should consider in its further review and investigation of this matter.

EPA also wishes to provide IPC representatives with an opportunity to meet and/or confer with EPA representatives in person or via teleconference. **However, IPC must request such a settlement meeting or conference within ten (10) days of receipt of this NON.** At such meeting or conference, IPC representatives may take the opportunity to "show cause" why EPA's

present information concerning the above-identified DRGHW violations is not correct and/or to articulate the reasons, if any, why IPC believes that EPA should not commence an administrative civil enforcement action against the Company. During such requested meeting or conference, EPA representatives also will be willing to discuss the potential pre-litigation administrative settlement and resolution of IPC's civil liability for the identified violations — including appropriate civil penalties and any necessary compliance activities.¹

Based upon the information currently in its possession, EPA has calculated a preliminary penalty settlement proposal of \$48,803.00 for the full and complete resolution of IPC's civil liability for the violations identified above.² EPA's penalty settlement proposal is offered to IPC solely in the context of a pre-filing settlement of this matter, via an administrative Consent Agreement and Final Order, pursuant to the requirements and provisions of 40 C.F.R. § 22.13(b). The Enclosed Penalty Calculation Worksheets (*Attachment A*, hereto) identify the settlement amount that EPA proposes for each violation (or group of related violations) and provides a brief explanation of the calculation methodology and rationale that EPA has employed in calculating its preliminary penalty settlement proposal. For your information, a copy of EPA's **RCRA Civil Penalty Policy**, and of the **Civil Monetary Penalty Inflation Adjustment Rule** (40 C.F.R. Part 19), may be found at: <http://cfpub.epa.gov/compliance/resources/policies/civil/penalty/>.

¹ Please note, however, that any resulting settlement must conform with applicable EPA Enforcement Response Policies and with EPA's *Consolidated Rules of Practice*, and must include IPC's agreement to pay an appropriate civil monetary penalty through its execution of a written Administrative Consent Agreement, the requirements of which are set forth at 40 C.F.R. § 22.18(b). In this respect, EPA's *Consolidated Rules of Practice* permit the simultaneous commencement and conclusion of an administrative adjudicatory proceeding without the issuance of a complaint. See, 40 C.F.R. § 22.13(b). IPC's civil liability for the identified violations thus may be addressed through the execution of an Administrative Consent Agreement that incorporates provisions for the payment of an agreed monetary penalty amount and for the performance of any necessary compliance activities at the Facility.

² EPA's proposed penalty settlement amount has been calculated in accordance with EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 ("RCRA Penalty Policy"), which reflects the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6982(a)(3) and (g) and the applicable provisions of the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19. In determining the amount of any penalty to propose in an enforcement action, RCRA Sections 3008(a)(3) and (g), 42 U.S.C. §§ 6928(a)(3) and (g), require EPA to take into consideration the seriousness of the violation(s) and any good faith effort(s) by the Respondent to comply with the applicable requirements. Pursuant to EPA's "RCRA Penalty Policy", EPA further may consider the degree of a violator's willfulness or negligence and its ability to pay a proposed penalty. Initially, EPA may presume that a business has the ability to pay a proposed civil penalty and to continue in business based on the size of the business and the perceived economic impact of the proposed penalty on that business. A Respondent may submit appropriate documentation to rebut any such presumption(s). EPA will consider, among other factors, a Respondent's ability to pay as a basis for adjusting a proposed civil penalty. The burden of raising and demonstrating any claimed inability to pay all, or any portion of, a proposed civil penalty rests with the Respondent.

In the event that EPA and IPC are unable to reach an expeditious settlement in this matter, EPA is prepared to issue the Company an *Administrative Complaint and Notice of Opportunity for Hearing* ("Complaint"), thereby initiating a civil administrative adjudicatory proceeding against IPC for the violations identified herein. Therefore, EPA invites and encourages representatives of IPC to schedule a settlement meeting or teleconference with EPA Region III representatives promptly upon the receipt of this NON.

In order to supplement EPA's current understanding of the facts herein at issue, and to facilitate settlement discussions, EPA further requests that IPC submit, **within ten (10) days of receipt of this NON**, any additional information and documentation which may be in its possession or control (and which has not previously been provided to EPA) that identifies any and all measures taken by IPC to correct, remedy or otherwise address the violations identified herein. If compliance measures are planned or are on-going, please identify such measures and provide a schedule indicating when each identified compliance measure will be completed. If IPC has any new, additional or further information that it considers relevant to the liability and/or penalty issues associated with this matter, EPA similarly requests that the Company provide such information to EPA **within ten (10) days of receipt of this NON**. EPA will review and consider all such information timely provided by IPC in advance of any scheduled settlement meeting or conference date.

EPA also is enclosing for your information, a copy of EPA's *Consolidated Rules of Practice* (**Attachment B**, hereto). For your further information, also find enclosed (as **Attachment C**, hereto), an Information Sheet entitled "U.S. EPA Small Business Resources," (EPA 300-F-99-004, September 1999), which identifies a variety of compliance assistance and other tools available to assist small businesses in complying with federal and State environmental laws. In addition, please be advised that certain companies may be required to disclose to the Securities and Exchange Commission ("SEC") the existence of certain pending or known to be contemplated environmental legal proceedings (administrative or judicial) arising under Federal, State or local environmental laws. Please see the attached "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings" (**Attachment D**, hereto) for more information about this SEC requirement and to aid you in determining whether your company may be subject to the same.

Please send any and all supplemental information that you wish EPA representatives to review and consider in this matter to the attention of either:

Jeanna Henry
Environmental Scientist
U.S. Environmental Protection Agency, Region III
Office of Land Enforcement (3LC70)
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029;

or

A.J. D'Angelo
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III
Office of Regional Counsel (3RC30)
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029.

To request and schedule a settlement conference, or if you have any questions concerning this matter, please contact Ms. Henry at (215) 814-2820 or have your attorney contact Mr. D'Angelo at (215) 814-2480. *A request for a settlement conference must be made within ten (10) days of receipt of this NON.*

Sincerely,



Carol Amend, Associate Director
Land and Chemicals Division
Office of Land Enforcement

Attachments

cc: J. Henry
Office of Land Enforcement (3LC70)

A.J. D'Angelo
Sr. Assistant Regional Counsel (3RC30)

fedex.com 1.800.GoFedEx 1.800.463.3339

FedEx US Airbill
Express

FedEx
Tracking
Number

8702 7855 0216

Form
10 No.

0215

Send

1 From Please print and press hard.

Date 1/26/2010 Sender's FedEx Account Number 1509-0196-0 SENDER'S FEDEX ACCOUNT NUMBER ONLY
Sender's Name A.J. D'ANGELO Phone (215) 814-2480
Company EPA, Region III
Address 1650 ARCH ST 3RC30/5TH FLOOR/2110 Dept./Floor/Suite/Room
City PHILADELPHIA State PA ZIP 19103-2029

2 Your Internal Billing Reference

First 24 characters will appear on invoice.

OPTIONAL

3 To

Recipient's Name MR. BRETT MILLER Phone (302) 421-9306
INTERNATIONAL PETROLEUM EXT. 203
Company CORP. OF DELAWARE HOLD Weekday Print FedEx location address below. NOT available for FedEx First Overnight. HOLD Saturday Print FedEx location address below. Available ONLY for FedEx Priority Overnight and FedEx 2Day to select locations.
Address 505 S. MARKET STREET Dept./Floor/Suite/Room
Address
Print FedEx location address here if HOLD option is selected.
City WILMINGTON State DE ZIP 19801

0408385938



Find drop-off locations at fedex.com

Simplify your shipping. Manage your account. Access all the tools you need.

4a Express Package Service *To most locations.

☐ FedEx Priority Overnight Next business morning.* Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
☒ FedEx Standard Overnight Next business afternoon.* Saturday Delivery NOT available.
☐ FedEx 2Day Second business day.* Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
☐ FedEx Express Saver Third business day.* Saturday Delivery NOT available.

4b Express Freight Service **To most locations.

☐ FedEx 1Day Freight Next business day.* Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected. CALL 1.800.322.0800
☐ FedEx 2Day Freight Second business day.* Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
☐ FedEx 3Day Freight Third business day.* Saturday Delivery NOT available.

5 Packaging

*Declared value limit \$500.
☒ FedEx Envelope* ☐ FedEx Pak* Includes FedEx Small Pak, FedEx Large Pak, and FedEx Sturdy Pak. ☐ FedEx Box ☐ FedEx

6 Special Handling and Delivery Signature Options

☐ SATURDAY Delivery NOT available for FedEx Standard Overnight, FedEx First Overnight, FedEx Express Saver, or FedEx 3Day Freight.
☐ No Signature Required Package may be left without obtaining a signature for delivery.
☐ Direct Signature Someone at recipient's address may sign for delivery. Fee applies.
☐ Indirect Signature If no one is available at address, someone at address may sign for residential deliveries only.
Does this shipment contain dangerous goods?
One box must be checked.
☒ No ☐ Yes As per attached Shipper's Declaration. ☐ Yes Shipper's Declaration not required. ☐ Dry Ice Dry ice, 5 UN 1845 ☐ Cargo Aircraft
Dangerous goods (including dry ice) cannot be shipped in FedEx packaging or placed in a FedEx Express Drop Box.

7 Payment Bill to:

Sender ☒ Recipient ☐ Third Party ☐ Credit Card
Enter FedEx Acct. No. or Credit Card No. below.
FedEx Acct. No. Credit Card No.

Total Packages Total Weight Total Declared Value
lbs. \$

*Our liability is limited to \$100 unless you declare a higher value. See back for details. By using this Airbill you agree to the service conditions on the back of this Airbill and in the current FedEx Service Guide, including terms that limit our liability.